

INDUSTRIAL RAIL SERVICE FUND PROCEDURE

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INDUSTRIAL RAIL SERVICE FUND PROCEDURE

I. INTRODUCTION

This document presents the policy and procedure for selecting projects and distributing grant monies made available through the Industrial Rail Service Fund (IRSF). It includes a summary of goals of the IRSF program and the role of the program in supporting the Mission of the Indiana Department of Transportation. It also includes some brief background information about the program along with definitions of terms related to the IRSF program; an overview of the program's statutory authority; information about the format for the application process; the application scoring and selection process; the procedure for preparing agreements, project reimbursement and close out procedures.

II. GOALS OF THE IRSF PROGRAM

The INDOT Mission is to plan, build, operate and maintain a superior transportation system enhancing safety, mobility and economic growth.

The IRSF program will be used to assist in the upgrading of the Class II & III railroad physical plant to help maintain and increase existing business shipping levels on the rail lines and also to assist with funding needed track infrastructure improvements related to specific significant new business development on the line.

III. DEFINITIONS

Class I, Class II and Class III Railroads: These classifications differentiate various sizes of railroads based on the amount of annual revenue they generate. The Surface Transportation Board (STB) sets the dollar delineations and annually adjusts the amount to account for inflation. Current revenue classifications are as follows: Class I railroads – annual revenue exceeds \$319.3 million. Class II railroads – revenue ranging between \$40 million and \$319.3 million. Class III railroads – less than \$40 million.

Railroad Organization: A railroad will be evaluated as either an individual railroad or as part of a parent company or a holding group that operates a railroad in Indiana. The entire portion of the parent company or holding group doing business in Indiana will be evaluated as a whole.

Railroad Port Authority: A railroad port authority is a railroad that is owned by a local government entity that has an interest in preserving rail service for the local community. Further information about Port Authorities is contained in I.C. 8-10-5-8.1.

286,000 pound capable track: This refers to track that can handle 286,000 pound rail cars.

Excepted Track: The lowest level of track condition as determined by Federal Railroad Administration (FRA) inspectors. Speeds are limited to not exceed 10 mph on excepted track segments. Other limitations apply per FRA.

Class 1 track through Class 5 track: The FRA rates railroad track according to its physical characteristics. Track condition for freight movement is considered improved as ratings increase

from Class 1 through Class 5. Class 1 track is limited to 10 mph. Speeds are allowed to increase to as much as 80 mph on Class 5 track.

IV. THE IRSF STATUTE

In 1982 the Indiana Legislature enacted House Enrolled Act No. 1302 establishing the legislation in IC 8-3-1.7 which created the Industrial Rail Service Fund (IRSF). The program originally was set up to provide low interest loans to Class II and III railroads to purchase or rehabilitate real or personal property that will be used by a railroad in providing transportation services. The Indiana Department of Transportation administers the fund. In 1995, the legislature modified the IRSF language to allow grants to be provided to Port Authorities for the rehabilitation of railroad infrastructure. In 1997, this authority was extended to Class II and Class III railroads as well. Class I railroads are not eligible for loans or grants from the IRSF. Port Authorities are limited to a grant award not to exceed 20% of the gross sales and use tax receipts deposited in the fiscal year preceding the fiscal year the grant is made. The maximum grant amount available for Port Authorities for the FY08 IRSF is \$184,000. Railroads are limited to a grant award equal to not more than 75% of the total cost of the project.

Revenue deposited to the fund is mandated by IC 6-2.5-10-1(4). The fund receives 0.033% of the state sales tax which is deposited into the IRSF account on a quarterly basis. Revenue also comes through repayment of IRSF loans as directed by IC 8-3-1.7-6. Any unused balance at the end of the fiscal year does not revert to the General Fund, but stays in the IRSF account. During fiscal year 2007, grants totaling approximately \$1,900,000.00 were awarded. In 2008 the funds available are \$1,300,000.00, (after excluding the amount for INDOT administration fees, High Speed Rail and \$200,000.00 to the IEDC).

V. IRSF PROGRAM GENERAL INFORMATION

Funding has generally focused on specific rehabilitation projects that would result in upgrading the overall condition of Indiana's Class III railroads. Earlier funding focused on upgrading excepted track, repairing bridges and assisting railroads to upgrade track to enable them to carry rail cars weighing up to 286,000 pounds. Each fiscal year, the application, score sheet, and grant agreement will be reviewed and updated.

To support economic growth initiatives, \$200,000 per year is available to the Indiana Economic Development Corporation to use for rail infrastructure projects that will help attract job-creating business development. The IEDC will recommend projects, subject to INDOT approval. The Rail Office will administer such grants.

Beginning in FY08, track and bridge improvement projects will be monitored by location to avoid duplicating a grant. Track improvements at the FY08 grant location will be eligible for a grant in nine years. Bridge improvements at the FY08 location will be eligible for a grant in 15 years.

Not every railroad that applies will receive a grant. The IRSF can be used as local match for federal funds.

VI. APPLICATION PROCEDURES AND FUNDING PROCESS

Overview

The IRSF grant application will be made available on the INDOT website, and will be mailed to applicants upon request. INDOT will establish a due date at least 6 weeks after the distribution. The review and scoring process occurs in March. Applications will be reviewed and the highest scoring projects will be funded until the available balance for this year is exhausted. The maximum grant award amount is \$350,000.00.

A railroad may submit a maximum of one application per year. INDOT expects applicants to submit a complete application. **If a railroad fails to submit any requested item, the application will receive a zero for that section. If the railroad is delinquent with any required filings, loan payment, or payment with any department of the State of Indiana, the application will be not be considered and the applicant will be notified by certified mail.** Completed applications should be sent to the attention of Mr. Michael Riley, Rail Office Manager, INDOT, 100 N. Senate Avenue, Room N955, Indianapolis, IN 46204.

Application

The application has these sections: Application Outline, Project Description, Management Information and Existing Economic Indicators. Following is a list of items required in each section.

1. Application Outline

- Applicant name and mailing address
- Contact person, address, phone number, fax number, and e-mail address
- Project location – milepost to milepost and length of segment to be improved
- Project Type [tie and/or ballast replacement; rail replacement; bridge deck repair; rail spur or siding; combination project; other rehabilitation project]
- Shippers and commodities
- New jobs generated in last year by businesses on line (excluding FY 2007 awardees)
- Proximity to Class I railroad
- MOW Track Maintenance Budget – (excluding signalization and/or derailment budget)

2. Project description - A description of the proposed project by milepost including a detailed budget that includes each proposed item for purchase and its cost; total project cost; railroad contribution, requested INDOT contribution and copy of contractor price quote.

3. Management information

- An organizational chart

4. Existing Economic Indicators

An application receives points based on the three year average of rail cars moved per track mile, and the job growth of businesses on the line. Class II and Class III railroads will have different thresholds for rail car movement. Points will be assigned based on the organizational structure of the railroad (i.e. if the railroad is a single entity or part of a railroad group or a railroad holding

company). The Indiana Economic Development Corporation and the Department of Agriculture will also evaluate the projects.

The railroad will also be evaluated on its proximity to a Class I and if it is located in an ozone non-attainment area. These items are considered part of INDOT's long-term transportation plan. Other considerations for evaluation are the railroads' compliance with all filing and monetary obligations with INDOT, and all State of Indiana departments. The railroad's contribution to the project, the MOW track maintenance budget and the safety performance of the railroad will also be assessed.

Each scope of work will be reviewed to ensure project funding amounts are appropriate and necessary. The Rail Office reserves the right to reduce the project scope and dollar amount.

Scoring

The score sheet is completed with information provided from the application, current and prior railroad annual reports, the Department of Agriculture, rail system map, IDEM ozone attainment map, FRA reports, INDOT Loan Status Report, INDOT financial information, FRA Accident Reports, Tracking Drawdown Report and the Indiana Economic Development Corporation. The score sheet categories and their measurement tool are listed in the following table.

Scoring Table:

Item	Measurement Tool	Score sheet category
Project Description	Project Outline	Project Description
Average rail cars moved per mile	Annual Report	Existing Economic Indicators
Railroad Organization	Annual Report & Org Chart	Existing Economic Indicators
Job Growth	IEDC	Existing Economic Indicators
Connects With Class I Railroad	Rail Map	Long-Term Transportation Policy
Ozone non-attainment area	IDEM Map	Long-Term Transportation Policy
Department of Agriculture Input	Dept. of Ag Report	Long-Term Transportation Policy
Compliant with Filing Requests	Loan Status Report; Code Enforcement; OMB	Other Considerations
Railroad Contribution	Project Outline	Other Considerations
MOW Track Maintenance	Project Outline	Other Considerations
Safety Performance	FRA reports/ Monthly Filings	Other Considerations

Project Selection

The review team includes the Chairperson - the Manager of the Rail Office, the senior Rail Planner, and the Rail Planner. If one or more positions on the review team is vacant, that spot will be filled by a Code Enforcement Officer chosen by the Chairperson.

Each application is reviewed and independently scored by each review team member using the IRSF grant evaluation criteria. The projects will be ranked by the Committee at a public meeting. Projects will be considered with the highest score and proceed down the list until the available funds are allocated. If multiple projects receive equal ratings that exceed available funds, the Committee will render the final selections. Public notices will be sent out and all applicants will be notified about the public meeting prior to awards.

The Rail Office will send award notifications and grant agreements to each railroad selected to receive a grant. The Rail Office will send notices to the railroads denied for funding. Grantees and award amounts will be posted to the INDOT website.

A report with the list of the recipients, total score, award amount, and a synopsis of each project application is prepared and submitted to the Division Director of Local Programs.

Appeal

An applicant not receiving a grant may appeal the selection decision to the Division Director Local Programs. The Division Director Local Programs will review all appeals. The process for filing an appeal is:

1. The affected applicant must send, by certified mail, an appeal within 15 calendar days after receiving notification of INDOT's decision. The appeal should be mailed to:

John Jordan
Division Director Local Programs
Indiana Department of Transportation
100 North Senate Avenue, Rm N955
Indianapolis, IN 46204

2. The Division Director Local Programs will make a final decision and notify the applicant in writing within 15 working days from the receipt of the appeal request or from the receipt of all requested additional materials.

3. The applicant may appeal INDOT's final decision in accordance with Indiana Code 4-21.5-3-1 et seq.

VII. Agreement

The Senior Rail Planner works with the Contract Administration Division to prepare the current fiscal year grant agreement. When completed, the agreement is forwarded to the Office of the Attorney General for form contract approval. The Senior Rail Planner also prepares the grant agreement exhibit based upon the approved scope and the budget. The exhibit is incorporated into the grant agreement. Each railroad must sign and return the agreement. When received by INDOT it is routed through the state signatory process. The railroad will receive a copy of the executed grant.

VIII. Project Payment Process

Payment

Once the grant is fully executed, a request is sent through the Local Programs business manager to the Project Procurement office to generate a purchase order. When the grant agreement is executed the applicant is sent a copy of the executed agreement, payment instructions and a contract invoice voucher with the applicant-specific sections completed. Prior to the applicant receiving a Notice to Proceed, the project will be inspected by the Rail Office with an applicant representative.

Project submittals for reimbursement must include a completed contract invoice voucher, copies of paid vendor bills or invoices and a project spending report. The project spending report is a statement on railroad letterhead that includes a written description of the work completed and the funding breakdown of the INDOT and railroad share of the total project cost, amount requested, amount spent to date and the amount remaining. Each request is paid in proportion to INDOT's approved share of the project, as indicated in the grant agreement exhibit.

No payments will be made without a vendor paid bill or invoice. Employee labor is eligible to be counted as part of the railroad match. The railroad has 18 months from the date of the purchase order to complete the project. Final payment will be made after a project inspection by a member of the Rail Office staff.

Scope Change

In the course of completing the project, the railroad may determine changes or modifications to the scope of work are needed. These requests will not involve an increase in the amount of funding provided by INDOT.

This occurrence should not happen regularly. However, when needed, the railroad sends a letter to the Rail Office Manager justifying the reason for the change. Scope changes that result in a more efficient use of resources are generally viewed favorably. A significant change in material costs which allows the railroad to increase the amount of material purchased is an example of an acceptable change in scope. Requests to substantially change the scope of work are not allowed. The Rail Office Manager has the authority to approve or deny changes. If approved, an "approval to the scope of work notice" is sent to the railroad and attached to the grant agreement.

If the total project cost exceeds the amount listed in the agreement, INDOT will not provide additional funding in excess of the grant award. Should the total project cost less than the amount listed in the agreement, INDOT will still pay its proportional share of the total project cost. Any balance remaining in the purchase order after the project is completed is returned to the IRSF account.

Project Close-Out

After the project is complete, and the railroad sends the final payment request; a project inspection and report is made by a Rail Office employee prior to the final payment. If the inspection documents the project has been completed based on the agreement exhibit, the final payment is made, and the purchase order is closed.

IX. Approximate Timeline

Develop Upcoming Fiscal Year Application, Score Sheet and Grant agreement	July – January 2008
Indiana Economic Development grant requests	On-going all year
Solicit Applications	February 15 – March 31
Review and Score Applications	April 1 - April 15
Committee Recommendations & Selection Meeting	April 17
Grant Agreements Sent to Awardees	April 28 - 30
Denial Notices Sent	April 28 - 30
Grant Applications Returned and Routed Through Signatory Process	May – June
Purchase Orders Generated	June – July
Grant Reimbursement	June '08 - September '09